

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
-vs-) Case No. CR-07-0205-F
)
HUAYI DENG,)
)
Defendant.)

ORDER

Before the court is the defendant's Motion for Early Termination of Supervised Release, doc. 184, filed on August 29, 2018. As a preliminary matter, the court will note that the motion certainly appears to be a carefully researched and written document, which the court applauds. The defendant's request is obviously sincere.

In July, 2009, the court imposed a sentence of 105 months of incarceration in this case, to be followed by seven years of supervised release. Doc. no. 162. This sentence resulted from the defendant's conviction, on Count I, of conspiracy to possess with intent to distribute MDMA and hydro marijuana and, on Count II, false acquisition of a firearm. The defendant came before the court with a mandatory minimum sentence of five years and a maximum sentence of 50 years (40 years on Count I plus 10 years on Count II). His guideline range of incarceration was 210 to 262 months. As noted, the sentence imposed by the court was 105 months of incarceration, substantially lower than the guideline range.

On November 1, 2012, the court entered an order denying a motion filed by the defendant to reduce his sentence pursuant 18 USC § 3582. Doc. no. 173. On

April 1, 2015, the court entered an order reducing the defendant's sentence to time served effective as of November 1, 2015. The defendant was released from incarceration by the Bureau of Prisons on October 31, 2015. According to the motion now before the court, the defendant was detained, for a short time after his release from the Bureau of Prisons, for reasons relating to his immigration status.

The court commends the defendant for his apparent successful efforts to lead a law-abiding life. However, having carefully considered the motion, the response and the recommendation of the United States Probation Office, the court concludes that the motion should be denied. The principal reasons for which the court denies the motion are:

1. In drug cases in general and in this case in particular, the court has a strong tendency to rely on the availability of long terms of supervised release in determining how long a term of incarceration should be imposed. In other words, in assessing how best to protect the community, the court often concludes (as it did in this case) that a term of incarceration shorter than might otherwise be imposed is justified in light of the availability of a long term of supervised release as a means of keeping the defendant within relatively expeditious reach of the law in the event of serious misconduct after release from incarceration.
2. The defendant's offenses of conviction were serious offenses, one of which involved possession of a firearm. This, of course, ties into the court's calculus as between incarceration and supervised release, as discussed above.
3. The defendant's motion makes no showing of loss or impairment of employment opportunities, educational opportunities or family-related opportunities as a result of his status as an offender on supervised release. The court notes that the defendant does state that he is "working diligently on correcting [his] immigration status and rating, which cannot fully happen until

[he] complete[s] [his] term of supervision in this case.” Doc. no. 184, at 13. This rather uninformative assertion does not suggest that the defendant has lost or will in fact lose any immigration-related opportunity as a result of his continuing status as an offender on supervised release. Aside from that, the court will note that in all but the most exceptional situations, the undersigned is unmoved by possible immigration consequences of a criminal conviction or of the sentence imposed for the criminal conviction. That is a matter to be addressed by immigration authorities as a natural consequence of the defendant’s criminal conduct.

Defendant’s motion, doc. no. 184, is accordingly **DENIED**.

IT IS SO ORDERED this 11th day of September, 2018.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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